

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF NEW YORK**

THOMAS M. MOROUGHAN,

Plaintiff,

-against-

THE COUNTY OF SUFFOLK, SUFFOLK COUNTY  
POLICE DEPARTMENT, SUFFOLK DETECTIVES  
TAVARES, CHARLES E. LESTER III,  
DETECTIVE/SGT. WILLIAM J. LAMB, SUFFOLK  
POLICE OFFICER MEANY AND SUFFOLK JOHN  
DOES 1-10, THE COUNTY OF NASSAU, NASSAU  
COUNTY POLICE DEPARTMENT, NASSAU  
POLICE OFFICERS ANTHONY D. DILEONARDO,  
EDWARD BIENZ AND JOHN DOES 11-20,

Defendants.

12 CV 0512

**ORDER**

**A. KATHLEEN TOMLINSON, Magistrate Judge:**

**WHEREAS**, defendant Anthony DiLeonardo was ordered to produce any test messages that are retrievable for the period of February 26, 2011 through November 30, 2012, and

**WHEREAS**, defendant Anthony DiLeonardo, requested copies of any retrievable text messaging records from Sprint/Nextel Communications, Inc. for wireless number

for the time period of February 26, 2011 through November 30, 2012, and

**WHEREAS**, the records have not been produced to date, and

**WHEREAS**, defendant Anthony DiLeonardo, by his attorney Amy Marion, has now issued a subpoena duces tecum directed to Sprint/Nextel Communications, Inc., commanding production of any and all text messaging records for wireless number for the time period of February 26, 2011 through November 30, 2012, and

**WHEREAS**, the subpoena requires the production of the records on or before March 12, 2013, and

**NOW, THEREFORE, IT IS HEREBY ORDERED**, that Sprint/Nextel Communications, Inc., produce any and all retrievable text messaging records for wireless number \_\_\_\_\_ for the time period of February 26, 2011 through November 30, 2012, and it is

**FURTHER ORDERED**, that if the records are not produced on or before March 12, 2013, that Sprint/Nextel Communications, Inc. shall submit sworn affidavit(s) to counsel for plaintiff and defendants, by person(s) with actual knowledge, setting forth the following matters:

- (1) A detailed account of the efforts made to locate the subject records, including the identities of all persons involved and their actual involvement;
- (2) A description of all records relating to the location of the subject records;
- (3) The identity of the person(s) who conducted the actual physical search for the subject records and the location(s) of that search.

**SO ORDERED.**

Dated: Central Islip, New York  
March 1, 2013

  
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A. KATHLEEN TOMLINSON  
U.S. Magistrate Judge